



New South Wales

# Electric Vehicles (Revenue Arrangements) Act 2021 No 25

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New South Wales

# Electric Vehicles (Revenue Arrangements) Act 2021 No 25

Act No 25, 2021

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An Act to provide for a system of distance-related road user charges for zero and low emissions vehicles and to amend the *Duties Act 1997* to exempt certain zero and low emissions vehicles from the payment of duty under Chapter 9 of that Act. [Assented to 1 November 2021]

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The Legislature of New South Wales enacts—

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Electric Vehicles (Revenue Arrangements) Act 2021*.

### 2 Commencement

This Act commences on the date of assent to this Act.

### 3 Object of Act

The object of this Act is to establish a system of distance-related road user charges for persons who use certain zero and low emissions vehicles.

### 4 Definitions

The Dictionary in Schedule 1 defines terms used in this Act.

**Note.** The *Interpretation Act 1987* also contains definitions and other provisions that affect the interpretation and application of this Act.

### 5 Act binds Crown

This Act binds the Crown.

### 6 Extraterritorial operation of Act

This Act is intended to have extraterritorial application as far as the legislative powers of the State permit, including in relation to zero or low emissions vehicles registered in New South Wales that travel on roads in other States or Territories.

### 7 Parliament's intention

It is Parliament's intention that the total amount of revenue collected under this Act from road user charges be paid into the Consolidated Fund.

### 8 Motor vehicles that are excluded from the application of Act

Each of the following is an *excluded motor vehicle* for the purposes of this Act—

- (a) a motor vehicle that is not required to be registered in New South Wales,
- (b) a heavy vehicle,
- (c) a motor vehicle that is of a type, or used for a purpose, prescribed by the regulations for this section.

## Part 2 Road user charges

### Division 1 Liability for and calculation of road user charges

#### 9 Road user charges payable in relation to certain zero or low emissions vehicles

A road user charge is payable in relation to the following zero or low emissions vehicles—

- (a) a zero or low emissions vehicle that—
  - (i) is registered for the first time on or after the relevant date, or
  - (ii) after the relevant date, is registered in the name of a person that differs from the person in whose name the vehicle was registered before the relevant date,
- (b) a battery electric vehicle or hydrogen fuel cell electric vehicle—
  - (i) that is registered for the first time before the relevant date, and
  - (ii) in relation to which duty was not paid under the *Duties Act 1997*, Chapter 9 because of the operation of section 270D of that Act.

#### 10 Registered operators liable for road user charges

The registered operator for a relevant zero or low emissions vehicle is liable for a road user charge payable in relation to the vehicle.

#### 11 Circumstances in which road user charges payable

- (1) A road user charge is payable for each kilometre for which a relevant zero or low emissions vehicle travels on a public place.
- (2) To avoid doubt, a road user charge is not payable for travel by a relevant zero or low emissions vehicle on private land.
- (3) For the purposes of subsection (1), the road user charge is payable in relation to each kilometre for which a relevant zero or low emissions vehicle travels regardless of whether the land on which it travels—
  - (a) is a road or another place, or
  - (b) is in New South Wales or another State or Territory.
- (4) The regulations may provide that kilometres travelled on the following are not kilometres for which a road user charge is payable—
  - (a) a specified road or specified place,
  - (b) a type of road or a type of place.
- (5) In this section—

**public place** includes—

  - (a) a road, or road related area, within the meaning of the *Road Transport Act 2013*, and
  - (b) another place—
    - (i) the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money, or
    - (ii) the occupier of which allows, whether or not on payment of money, members of the public to enter.

#### 12 Calculation of indexed amount

- (1) The indexed amount for the 2021–22 financial year is 2.500 cents per kilometre.

- (2) For a financial year after the 2021–22 financial year, the indexed amount is calculated using the following formula—

$$A = A_p \times \text{CPI}/\text{CPI}_p$$

where—

*A* is the indexed amount for the financial year.

*A<sub>p</sub>* is the indexed amount for the previous financial year.

*CPI* is the Sydney All Groups CPI for the financial year.

*CPI<sub>p</sub>* is the Sydney All Groups CPI for the previous financial year.

- (3) The indexed amount is to be rounded to 3 decimal places.

- (4) In this section—

*Sydney All Groups CPI*, for a financial year, means the Sydney All Groups Consumer Price Index Number in original terms for the most recent quarter, published before the start of the financial year by the Australian Bureau of Statistics.

### 13 Road user charge rate

- (1) The road user charge rate for a financial year is—
- for a battery electric vehicle or hydrogen fuel cell electric vehicle—the indexed amount for the financial year, and
  - for a plug-in hybrid electric vehicle—80% of the indexed amount for the financial year.
- (2) The amount calculated under subsection (1)(b) is to be rounded to 3 decimal places.
- (3) However, if the road user charge rate for a financial year (the *current financial year*) for a relevant zero or low emissions vehicle would be less than the road user charge rate for the previous financial year, the road user charge rate for the current financial year is the rate for the previous financial year.
- (4) Transport for NSW must, before the start of each financial year, publish on a Government website a notice stating the road user charge rate for the financial year.
- (5) However, failure to comply with subsection (4) does not affect the validity of a road user charge.

### 14 Road user charge

- (1) For a relevant zero or low emissions vehicle, the road user charge for a period is the road user charge rate multiplied by the number of kilometres travelled by the vehicle on public land in the period.
- (2) For the purposes of subsection (1), the number of kilometres travelled by a relevant zero or low emissions vehicle in a period is to be calculated by—
- taking the difference between the odometer of the vehicle at the start of the period and the end of the period, and
  - reducing the number of kilometres measured under paragraph (a) by deducting—
    - any kilometres Transport for NSW is satisfied have been travelled on private land, and
    - any other kilometres prescribed by the regulations.
- (3) The number of kilometres travelled by a zero or low emissions vehicle in a period is to be rounded down to the nearest kilometre.

### 15 Odometer readings not available

- (1) This section applies if a registered operator of a relevant zero or low emissions vehicle is not able to provide an odometer reading for the vehicle for a period.
- (2) The registered operator must provide an estimate of the number of kilometres travelled by the zero or low emissions vehicle during the period.
- (3) For the purposes of subsection (2), the estimate is to be calculated in a way Transport for New South Wales considers reasonable in the circumstances.

### 16 Payment of road user charges

The registered operator of a relevant zero or low emissions vehicle must pay the road user charges payable in relation to the vehicle by—

- (a) paying the road user charge for the number of kilometres to be travelled by the vehicle before the vehicle travels the kilometres (the *pre-paid option*), or
- (b) if the regulations provide that registered operators of relevant zero or low emissions vehicles may pay road user charges for the number of kilometres travelled by the vehicle after the travel (the *post-paid option*)—by paying the road user charge for the number of kilometres travelled by the vehicle after the kilometres are travelled.

### 17 Pre-paid option for payment of road user charges

- (1) This section applies if the registered operator of a relevant zero or low emissions vehicle is paying the road user charges payable in relation to the vehicle by the pre-paid option.
- (2) The registered operator must pay to Transport for NSW the road user charge—
  - (a) for each 1,000 kilometres the relevant zero or low emissions vehicle travels before the vehicle travels the kilometres, or
  - (b) otherwise in accordance with the regulations.
- (3) To avoid doubt, for the purposes of subsection (2)(a), the registered operator of a relevant zero or low emissions vehicle may pay the road user charge for any multiple of 1,000 kilometres the vehicle will travel.
- (4) Before the registered operator of a relevant zero or low emissions vehicle may pay road user charges under the pre-paid option, the registered operator must give Transport for NSW a current odometer reading for the vehicle.
- (5) For the purposes of subsection (4), a registered operator of a relevant zero or low emissions vehicle must give the odometer reading in the way approved by Transport for NSW.
- (6) At least one of the ways in which an odometer reading may be given under subsection (5) must be by using a device or system that does not transmit information to Transport for NSW without the intervention of the registered operator of the vehicle or another person.
- (7) A registered operator of a relevant zero or low emissions vehicle who is using the pre-paid option to pay the road user charges payable in relation to the vehicle must ensure the vehicle does not travel a number of kilometres that is more than the number of kilometres for which the road user charge for the vehicle has been paid, unless the operator has a reasonable excuse.
- (8) The regulations may provide—
  - (a) that a person who contravenes subsection (7) commits an offence against the subsection, and

- (b) for a maximum penalty for the offence of not more than—
    - (i) 20 penalty units for an individual, and
    - (ii) 100 penalty units for a body corporate.
- (9) Despite subsection (7), a registered operator of a relevant zero or low emissions vehicle does not commit an offence under subsection (7) if the operator—
  - (a) travels no more than 500 kilometres more than the number of kilometres for which the road user charge for the vehicle has been paid, and
  - (b) pays the road user charges for the additional kilometres within 21 days after the operator is given written notice by Transport for NSW that the charges are payable.
- (10) For the purposes of subsection (7), a reasonable excuse includes, but is not limited to, an excuse prescribed by the regulations.
- (11) Without limiting subsection (10), the regulations may provide—
  - (a) that a reasonable excuse may include financial hardship, and
  - (b) for the circumstances or criteria that constitute financial hardship, and
  - (c) for conditions that apply to a reasonable excuse of financial hardship.

#### **18 Post-paid option for payment of road user charges**

- (1) This section applies if the registered operator of a relevant zero or low emissions vehicle is paying the road user charges payable in relation to the vehicle by the post-paid option.
- (2) The registered operator of the relevant zero or low emissions vehicle may pay the road user charges in relation to the vehicle by the post-paid option only if the operator has, before travelling the number of kilometres for which the charges are payable, notified Transport for NSW the operator has elected to use the post-paid option to pay the charges.
- (3) A registered operator of a relevant zero or low emissions vehicle who is using the post-paid option to pay the road user charge payable in relation to the vehicle must give Transport for NSW a current odometer reading for the vehicle at the intervals prescribed by the regulations.  
Maximum penalty—
  - (a) for an individual—20 penalty units, and
  - (b) for a body corporate—100 penalty units.

### **Division 2 Administration**

#### **19 When number of kilometres travelled by relevant zero or low emissions vehicles must be reported**

An odometer reading for a relevant zero or low emissions vehicle must be given to Transport for NSW, in the way approved by Transport for NSW—

- (a) at the time the vehicle is registered or registration is renewed, by the person applying for registration or renewal of registration, and
- (b) when the vehicle is sold or otherwise disposed of, by the person selling or otherwise disposing of the vehicle within the period prescribed by the regulations, and
- (c) when otherwise prescribed by the regulations.

Maximum penalty—

- (a) for an individual—20 penalty units, and

- (b) for a body corporate—100 penalty units.

## 20 Sale or other disposal of vehicles

- (1) This section applies if a person selling or otherwise disposing of a relevant zero or low emissions vehicle gives Transport for NSW an odometer reading under section 19(b).
- (2) Transport for NSW may issue to the person—
  - (a) a notice containing an assessment of the road user charges payable in relation to the relevant zero or low emissions vehicle by the person, or
  - (b) a notice specifying a refund is payable to the person for road user charges paid in relation to the relevant zero or low emissions vehicle and how the refund will be paid.
- (3) If the person is issued with a notice containing an assessment of road user charges payable in relation to the relevant zero or low emissions vehicle, the person must pay the charges within—
  - (a) 14 days after the date of notice containing the assessment, or
  - (b) a longer period decided by Transport for NSW.

## 21 Stolen vehicles, written-off vehicles, damaged vehicles etc

- (1) This section applies if—
  - (a) a relevant zero or low emissions vehicle is—
    - (i) reported as stolen to the NSW Police Force, or
    - (ii) a written-off light vehicle, or
    - (iii) otherwise damaged or otherwise under repair, or
    - (iv) otherwise disposed of for scrap, and
  - (b) Transport for NSW considers it would be unreasonable to require the vehicle's registered operator to—
    - (i) provide an odometer reading, or
    - (ii) provide an odometer reading by the time required under section 17 or 18.
- (2) Transport for NSW may—
  - (a) assess the amount of the road user charge payable based on an estimate of the kilometres travelled that Transport for NSW considers reasonable in the circumstances, or
  - (b) extend the time to provide the odometer reading.
- (3) In this section—  
**written-off light vehicle** has the same meaning as in the *Road Transport Act 2013*, section 83.

## **Part 3 Miscellaneous**

### **22 Review of operation of Act by Parliamentary Committee**

- (1) As soon as practicable after the day that is 2 years after the commencement of the Act, the Legislative Council is to designate, by resolution, a committee of the Legislative Council for the purposes of this section.
- (2) The resolution is to specify the terms of reference of the committee, which are to relate to the conduct of a review of the operation of the Act.

### **23 Approval of devices or systems**

Transport for NSW may, by notice published in the Gazette, approve a device or system to be used to measure the number of kilometres travelled by a relevant zero or low emissions vehicle for the purposes of this Act.

### **24 Power to require information and documents**

- (1) For the purposes of calculating whether a person is liable for road user charges or the amount of the charges, Transport for NSW may, by written notice given to the person, require the person to do either of the following within the period stated, not less than 21 days, in the notice—
  - (a) give Transport for NSW information described in the notice,
  - (b) give Transport for NSW a document described in the notice that is in the person's custody or control.
- (2) To avoid doubt, information or a document may be requested under subsection (1) only if the information or document is reasonably necessary for the administration of this Act.
- (3) The person must comply with the notice unless the person has a reasonable excuse.  
Maximum penalty—
  - (a) for an individual—20 penalty units, and
  - (b) for a body corporate—100 penalty units.

### **25 Disclosure of information**

A person must not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is—

- (a) made with the consent of the person from whom the information was obtained, or
- (b) made in connection with the administration or execution of this Act, or
- (c) made under an arrangement under section 26, or
- (d) otherwise authorised or required by law.

Maximum penalty—

- (a) for an individual—20 penalty units, and
- (b) for a body corporate—100 penalty units.

### **26 Information sharing**

- (1) Transport for NSW may enter into an arrangement with any of the following about the sharing of relevant information—
  - (a) another government sector agency or the head of a government sector agency,
  - (b) an agency of another State or Territory.

- (2) In this section—  
**government sector agency** has the same meaning as in the *Government Sector Employment Act 2013*.  
**head**, of a government sector agency, has the same meaning as in the *Government Sector Employment Act 2013*.  
**relevant information** means information relevant to—
- (a) road user charges under this Act, or
  - (b) charges under the law of the other State or Territory that are equivalent or similar to road user charges under this Act.

## 27 Arrangements with other jurisdictions

The Minister may enter into an arrangement with another State or Territory about the collection of payments in relation to road user charges payable under a law of that State or Territory for vehicles registered in New South Wales that travel on roads in the other State or Territory.

## 28 Proceedings for offences

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

## 29 Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.  
**Note.** The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.
- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations, not exceeding the maximum amount of penalty that could be imposed for the offence by a court.
- (5) For the purposes of subsection (4), the amount prescribed must not be more than the maximum amount of penalty that could be imposed for the offence by a court.
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section—  
**authorised officer** means—
  - (a) a member of the NSW Police Force, or
  - (b) a person declared by the regulations to be an authorised officer for the purposes of this section.

## 30 Regulations

- (1) The Governor may make regulations about a matter that is—
  - (a) required or permitted to be prescribed by this Act, or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may provide for the following—

- (a) exemptions and concessions in relation to the classes of vehicles and registered operators of vehicles to which this Act applies,
  - (b) refunds, discounts and waivers in relation to road user charges,
  - (c) matters in relation to the payment of road user charges, including pre-paid and post-paid options and the ways in which charges may be paid,
  - (d) matters relating to the calculation of the number of kilometres zero or low emissions vehicles have travelled on private land, including the evidence required to establish proof of the number of kilometres travelled on private land,
  - (e) matters in relation to the assessment of road user charges, including—
    - (i) the issue of invoices for charges, and
    - (ii) objections to and appeals against the assessment of charges, and
    - (iii) reassessment of road user charges,
  - (f) the payment of interest and penalties in relation to failures to pay road user charges or the late payment of road user charges,
  - (g) the recovery of unpaid road user charges,
  - (h) matters relating to the enforcement of this Act, including—
    - (i) the inspection of vehicles, and
    - (ii) the ways in which odometer readings for zero or low emissions vehicles may be verified, and
    - (iii) the power to cancel or suspend the registration of zero or low emissions vehicles for failure to pay road user charges or otherwise comply with this Act,
  - (i) matters relating to the liability to pay road user charges when ownership or registration of zero or low emissions vehicles is transferred or otherwise changes,
  - (j) records to be kept for the purposes of this Act,
  - (k) returns to be provided for the purposes of this Act,
  - (l) the service of notices under this Act.
- (3) The regulations may create offences punishable by a penalty of not more than—
- (a) 20 penalty units for an individual, or
  - (b) 100 penalty units for a body corporate.
- (4) To avoid doubt—
- (a) the regulations may not provide for the payment of fees under this Act, and
  - (b) regulations providing for the payment of road user charges, the assessment of road user charges or the payment of interest and penalties in relation to road user charges may not include a requirement to pay administrative costs that are more than the costs reasonably incurred in producing notices and statements to persons required to pay the road user charges, interest or penalties.

### **31 Minister to provide information about battery electric vehicle registrations**

- (1) As soon as practicable after the day that is 1 year after the commencement of this Act, and after each further period of 1 year, the Minister must give each house of Parliament an update of the following—
- (a) the percentage of new vehicles registered during the preceding 1 year period that are battery electric vehicles,

- (b) the date by which the Minister reasonably expects registrations of battery electric vehicles in New South Wales will be 30% of new vehicles registered in New South Wales.
- (2) This section is repealed on the earlier of the following—
- (a) 1 July 2027,
  - (b) the prescribed date under Schedule 1, definition of *relevant date*, paragraph (a).

## Schedule 1 Dictionary

section 4

**2021–22 financial year** means the financial year starting on 1 July 2021.

**battery electric vehicle** means a motor vehicle that—

- (a) uses only an electric motor for propulsion, and
- (b) is not fitted with—
  - (i) a fuel cell, or
  - (ii) an internal combustion engine.

**excluded motor vehicle**—see section 8.

**financial year** means the period—

- (a) starting on 1 July in a year, and
- (b) ending on 30 June in the following year.

**heavy vehicle** has the same meaning as in the *Road Transport Act 2013*.

**hydrogen fuel cell electric vehicle** means a motor vehicle that—

- (a) uses an electric motor for propulsion, and
- (b) is equipped with a fuel cell for converting hydrogen to electricity, and
- (c) is not fitted with an internal combustion engine.

**motor vehicle** means—

- (a) a motor vehicle within the meaning of the *Road Transport Act 2013*, but
- (b) does not include an excluded motor vehicle.

**odometer** includes—

- (a) a system of vehicle telematics installed in a relevant zero or low emissions vehicle by the manufacturer of the vehicle, and
- (b) another device or system that measures the number of kilometres travelled by a vehicle and approved by Transport for NSW under section 23.

**plug-in hybrid electric vehicle** means a motor vehicle that—

- (a) uses an electric motor for propulsion, and
- (b) takes and stores energy from an external source of electricity, and
- (c) is fitted with an internal combustion engine for—
  - (i) the generation of electrical energy, or
  - (ii) propulsion of the vehicle.

**post-paid option**—see section 16(b).

**pre-paid option**—see section 16(a).

**registered operator**, for a zero or low emissions vehicle, means—

- (a) the registered operator of the vehicle under the *Road Transport Act 2013*, or
- (b) another person prescribed by the regulations.

**relevant date** means the earlier of the following—

- (a) 1 July 2027,
- (b) the date prescribed by the regulations as being the date on which the Minister is reasonably satisfied sales of battery electric vehicles in New South Wales will be 30% of new vehicle sales in New South Wales.

**relevant zero or low emissions vehicle** means a zero or low emissions vehicle referred to in section 9.

***zero or low emissions vehicle*** means—

- (a) a battery electric vehicle, or
- (b) a hydrogen fuel cell electric vehicle, or
- (c) a plug-in hybrid electric vehicle.

## Schedule 2 Savings and transitional provisions

### 1 Transitional provision for odometer readings for certain zero or low emissions electric vehicles

- (1) This section applies to a relevant zero or low emissions electric vehicle referred to in this Act, section 9(b).
- (2) Despite this Act, section 17, the registered operator of the relevant zero or low emissions electric vehicle is not required to give Transport for NSW a current odometer reading for the vehicle until the date on which the registration of the vehicle is first renewed after the relevant date.

### 2 Transitional provision in relation to liability for road user charges before relevant date

- (1) Despite Part 2, Division 1—
  - (a) a road user charge is not payable for kilometres travelled by a relevant zero or low emissions vehicle before the relevant registration date for the vehicle, and
  - (b) the registered operator for a relevant zero or low emissions vehicle is not liable for a road user charge in relation to the vehicle before the relevant registration date for the vehicle.
- (2) In this section—

**relevant registration date**, in relation to a relevant zero or low emissions vehicle, means the date the first of the following happens under the *Road Transport Act 2013* after the relevant date—

  - (a) the vehicle is registered for the first time,
  - (b) the person in whose name the vehicle is registered differs from the person in whose name the vehicle was last registered,
  - (c) the vehicle's registration is renewed.

## Schedule 3 Amendment of Duties Act 1997 No 123

### Section 270D

Insert after section 270C—

#### 270D Exemption for certain zero and low emissions vehicles

- (1) Duty under this Chapter is not chargeable on—
  - (a) an application to register a battery electric vehicle or hydrogen fuel cell electric vehicle if—
    - (i) the application is made between 1 September 2021 and the relevant date, and
    - (ii) the vehicle has a dutiable value of not more than \$78,000, or
  - (b) an application to register a zero or low emissions vehicle made on or after the relevant date.

- (2) In this section—

**battery electric vehicle** has the same meaning as in the *Electric Vehicles (Revenue Arrangements) Act 2021*.

**hydrogen fuel cell electric vehicle** has the same meaning as in the *Electric Vehicles (Revenue Arrangements) Act 2021*.

**relevant date** has the same meaning as in the *Electric Vehicles (Revenue Arrangements) Act 2021*.

**zero or low emissions vehicle** has the same meaning as in the *Electric Vehicles (Revenue Arrangements) Act 2021*.

[Second reading speech made in—

Legislative Assembly on 22 June 2021

Legislative Council on 14 October 2021]